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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Bertram V. Burke

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EXAMINER

SUBRAMANIAN, NARAYANSWAMY

ART UNIT

PAPER NUMBER

3692

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DELIVERY MODE

05/21/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/611,905	<b>Applicant(s)</b> BURKE, BERTRAM V.	
	<b>Examiner</b> Narayanswamy Subramanian	<b>Art Unit</b> 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-31, 41, 43-51, 53, 55, 56 and 58-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-31, 41, 43-51, 53, 55, 56 and 58-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This office action is in response to applicants' communication filed on February 21, 2007. Amendments to claims 21-26, 29, 41, 43-47, 55, 56, 58, 59 and 64-66 have been entered. Rejections made under the second paragraph of 35 U.S.C. 112 in the last office action are withdrawn in view of the amendments. Claims 21-31, 41, 43-51, 53, 55, 56 and 58-66 are currently pending and have been examined. The rejections and response to arguments are stated below.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 21-31, 41, 43-51, 53, 55, 56 and 58-66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 21 and 41 recite the limitation "transmitting the modified data representing a debit or credit". There is no antecedent basis for this limitation in the claim because "modified data representing a debit or credit" has not been identified. Further it is not clear if the modified data is the same as the data associated with the payor account. Also these claims recite "based on the credit or debit amount of the data". It is not clear if the credit or debit amount of the data is the same as the data that identifies a credit or debit amount. Hence the scope of the claim is not clear. Appropriate correction/clarification is required. Claims 22-31, 43-51, 53, 55, 56 and 58-66 are rejected by dependency on rejected independent claims.

Art rejections that follow are interpreted in light of the rejections above.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 21-31, 41, 43-51, 53, 55, 56 and 58-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bigari (US Patent 5,010,485) in view of Lawlor et al. (US Patent 5,220,501).

Claim 21, Bigari teaches a computerized method of modifying data associated with a payor account from a financial transaction between a payor and a payee (See Bigari Abstract), comprising: entering data that identifies a credit or debit amount into a point of sale terminal controlled by the payee (See Bigari Abstract, Column 2 lines 44-54, creating transaction data is interpreted to include this step); transmitting the data that identifies the credit or debit amount from the point of sale terminal to a separate network controlled by other than the payee (See Bigari Abstract, Column 2 lines 43-54, host institutions are in a separate network controlled by other than the payee), wherein the point of sale terminal accepts both credit and debit amounts (See Bigari Column 2 lines 1-5); within the separate network, modifying the data associated with the payor account as a credit or debit based on the credit or debit amount (See Bigari Abstract, Column 2 lines 58-63); receiving by the payee an amount of money based on the credit amount (See Bigari Abstract, Column 2 lines 1-5 and lines 64-68); and transmitting data representing a debit or credit back to the payee (See Bigari Abstract, Column 5 lines 9-14).

Bigari does not explicitly teach the steps wherein the payor account is a voucher account and receiving by the payee an amount of money during the financial transaction. However the step wherein the payor account is a voucher account is interpreted as non-functional descriptive material because it does not in any way change the way the steps of the method are performed. Hence this limitation is not given patentable weight.

Lawlor teaches the step of receiving by the payee an amount of money during the financial transaction (See Lawlor Abstract, Column 13 lines 66-68, Column 18 lines 46-50 and Column 21 line 52 – Column 22 line 15).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Bigari to include the teachings of Lawlor. The combination of disclosures suggests that users would have benefited from cost-savings and time savings offered by the system (See Lawlor Column 14 lines 47-67).

Claim 41, Bigari teaches a computerized method of modifying data associated with a payor account for a financial transaction using a point of sale terminal of a merchant (See Bigari Title), said method comprising: entering data that identifies a credit or debit amount into a point of sale terminal that receives data concerning a payor's transaction with the merchant, said point of sale terminal being controlled by the merchant (See Bigari Bigari Abstract, Column 2 lines 44-54, creating transaction data is interpreted to include this step) wherein the point of sale terminal accepts both credit and debit amounts (See Bigari Column 2 lines 1-5); transmitting the data that identifies the credit or debit amount from the point of sale terminal to a separate network (See Bigari Column 2 lines 43-54, host institutions are in a separate network controlled by other than the merchant); within the separate network, modifying the data associated with the

payor account as a credit or debit based on the credit or debit amount (See Bigari Abstract, Column 2 lines 58-63); transferring an amount of money based on the credit amount to the merchant (See Bigari and lines 64-68); and transmitting data representing a debit or credit back to the merchant (See Bigari Abstract, Column 5 lines 9-14).

Bigari does not explicitly teach the steps wherein the payor account is a surplus account and transferring an amount of money to the merchant during the financial transaction. However the step wherein the payor account is a surplus account is interpreted as non-functional descriptive material because it does not in any way change the way the steps of the method are performed. Hence this limitation is not given patentable weight.

Lawlor teaches the step of transferring an amount of money to the merchant during the financial transaction (See Lawlor Abstract, Column 13 lines 66-68, Column 18 lines 46-50 and Column 21 line 52 – Column 22 line 15).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify Bigari to include the teachings of Lawlor. The combination of disclosures suggests that users would have benefited from cost-savings and time savings offered by the system (See Lawlor Column 14 lines 47-67).

Claim 22, Bigari teaches the step wherein said entering of data occurs at a point of sale (See Bigari Column 10 lines 11-19).

Claims 23 and 43, the step wherein the transmitting of data that represents a credit or debit amount is performed after each entering step is old and well known in the art. This step helps a user correct errors before proceeding to the next step.

Claims 24 and 44, Bigari teaches the step wherein the transmitting of data that represents a credit or debit amount is performed after a plurality of entering steps (See Bigari claim 36).

Claims 25 and 45, Bigari teaches the step wherein the payor account is one of a plurality of payor accounts, and wherein the step of modifying the data includes selecting the one or more payor accounts based on instructions that are entered in the system by said payor and that accompany the entering of data (See Bigari claim 36, family of charge cards implies plurality of accounts).

Claims 26 and 46, Bigari teaches the step wherein said transmitting of the data that represents a credit or debit amount is performed by the payee, and the modifying and transmitting of data to the payee are performed outside the control of the payee (See Bigari Column 2 lines 42-52)

Claims 27 and 47, Bigari teaches the step wherein said entering and transmitting of the data that represents a credit or debit amount are performed by the payor, and the modifying and transmitting of data to the payee are performed by a third party other than the payee (See Bigari Abstract).

Claims 28 and 48, Bigari teaches the step wherein the point of sale terminal handles both data and cash (See Bigari Column 11 lines 29-45).

Claims 29 and 49, Bigari teaches the step wherein entering the data includes first entering data that identifies a credit amount into a payor account at the point of sale terminal; at a later time entering data that identifies a debit amount into a point of sale terminal (See Bigari Column 2 lines 58-67 and Column 11 lines 19-65).

Claims 30 and 50, Bigari teaches the step wherein said payor account is an existing payor account (See Bigari Column 1 lines 24-29).

Claims 31 and 51, Bigari teaches the step wherein entering the data into a payor account occurs at multiple unrelated payees with multiple payee accounts (See Bigari Column 2 lines 13-19).

Claim 53 the step of printing a receipt for the payor concerning an overall balance in the payor account is old and well known. For instance after an ATM transaction, the receipt provides information about the transaction amount and the balance in the account.

Claims 55 and 56, Bigari teaches the step wherein the step of entering includes specifying whether the modifying of data in a payor account is a credit or debit (See Bigari Abstract and Column 1 line 65 - Column 2 line 5).

Claims 58 and 59, Bigari teaches the step wherein the step of entering includes specifying that the modifying of data in a payor account is a debit (See Bigari Abstract and Column 1 line 65 - Column 2 line 5).

Claim 60, Bigari teaches the step wherein the payor account is a default account (Inherent in Bigari's disclosure; an account read from a credit card is a default account).

Claim 61, Bigari teaches the step comprising identifying the payor with a PIN number (See Bigari Column 1 line 65 - Column 2 line 5, PIN number is well known in debit card usage).

Claims 62-63, Bigari teaches the step comprising identifying the payor electromagnetically using a sensor responsive to electromagnetic radiation (See Bigari Column 7 lines 1-9) wherein said sensor uses a bar code reader (old and well known).



Claims 64 and 65, Bigari teaches the step wherein the step of entering data comprises reading magnetic signals with a sensor responsive to magnetic signals (See Bigari Column 7 lines 1-9) and wherein the step of entering a data comprises reading magnetic signals from a smart card (See Bigari Column 1 line 30 - Column 2 line 5 and Column 4 lines 1-5; charge cards are interpreted to include a smart card).

Claim 66, Bigari teaches the step wherein entering data comprises reading a credit or debit card (See Bigari Column 1 line 30 - Column 2 line 5 and Column 4 lines 1-5).

### ***Response to Arguments***

6. Applicant's arguments with respect to pending claims have been considered but are moot in view of new grounds of rejection.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Narayanswamy Subramanian whose telephone number is (571) 272-6751. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777. The fax number for Formal or Official faxes and Draft to the Patent Office is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only. For more information about the PMR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "N. Sub", with a long horizontal stroke extending to the right.

Dr. N. Subramanian  
Primary Examiner  
Art Unit 3692

May 12, 2007